

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MIKE SHALES, et al.,)
Plaintiffs,)
v.)
DU-COOK CONSTRUCTION CO., INC.,)
an Illinois corporation, d/b/a DU-COOK)
MASONRY, INC., and DONALD J.)
TESSLER, an individual,)
Defendants.)
CIVIL ACTION
NO. 09 C 0129
JUDGE MATTHEW F. KENNELLY

MOTION FOR ENTRY OF JUDGMENT
AGAINST DEFENDANT DU-COOK CONSTRUCTION CO., INC.

Plaintiffs, by and through their attorneys, default having been entered against the Defendant, DU-COOK CONSTRUCTION CO., INC., on March 18, 2009, request this Court enter judgment against Defendant, DU-COOK CONSTRUCTION CO., INC. In support of that Motion, Plaintiffs state:

1. On March 18, 2009, this Court entered default against Defendant, Du-Cook Construction Co., Inc., and granted Plaintiffs' request for an order directing Defendant to turn over its monthly fringe benefit contribution reports for September 2008 through February 2009. The Court retained jurisdiction to enforce the Order and to enter judgment (a copy of the Minute Order/Order entered on March 18, 2009 is attached hereto).

2. On March 24, 2009, Defendant, Du-Cook Construction Co., Inc., submitted its monthly fringe benefit contribution reports for September 2008 through January 2009. The

contribution reports show that the Defendant is delinquent in contributions to the Funds in the amount of \$33,276.05. (See Affidavit of Patricia M. Shales).

3. Additionally, the amount of \$3,327.61 is due for liquidated damages. (Shales Aff. Par. 7(b)).

4. On November 21, 2008, Plaintiffs' auditors completed an audit of Defendant, Du-Cook Construction Co., Inc.'s payroll books and records. The audit findings show that the Defendant is delinquent in contributions in the amount of \$22,790.13, liquidated damages in the amount of \$2,279.01, and interest in the amount of \$6,840.31, for a total of \$31,909.45. (Shales Aff. Par. 5).

5. Plaintiffs' auditing firm of Levinson Simon & Sprung, PC charged Plaintiffs \$1,387.41 to perform the audit examination and complete the report. (Shales Aff. Par. 6).

6. Pursuant to the Trust Agreements, a liquidated damages surcharge has been assessed against the Defendant, Du-Cook Construction Co., Inc., in the amount of ten (10%) percent of all contributions due and unpaid and all contributions which were paid late, for the month of August 2008, in the total amount of \$944.10. (Shales Aff. Par. 8).

7. For the purpose of collection of dues deducted from employee wages, the Funds are authorized agents of the Construction and General Laborers' District Council of Chicago and Vicinity's Work Dues Fund, the Laborers-Employers Cooperation and Education Trust, and the Laborers' District Council Labor Management Cooperation Committee, the Chicago Area Independent Construction Association, the Apprenticeship Fund, the Safety Fund and CISCO Fund (collectively referred to as the "District Council Funds"). (Shales Aff. Par. 3). Defendant, Du-Cook Construction Co., Inc. submitted reports, but failed to remit dues to the District Council Funds for

the time period August 2008 through December 2008. Accordingly, Defendant owes dues in the amount of \$3,101.36, liquidated damages assessed at the rate of ten (10%) percent in the amount of \$310.14 and interest in the amount of \$106.21, for a total of \$3,517.71. (Shales Aff. Par. 7(d)).

8. In addition, Plaintiffs' firm has expended the amount of \$850.00 for costs and \$3,851.25 in attorneys' fees in this matter. (See Affidavit of Catherine M. Chapman).

9. The Plaintiff Funds also expended an additional amount of \$840.50 in attorneys' fees for services performed by their former counsel in this matter. (Shales Aff. Par. 9).

10. Based upon the documents attached hereto, Plaintiffs request entry of judgment against Defendant, Du-Cook Construction Co., Inc., in the total amount of \$79,904.08.

WHEREFORE, Plaintiffs respectfully request this Court to enter judgment against Defendant, Du-Cook Construction Co., Inc., in the amount of \$79,904.08.

/s/ Beverly P. Alfon

Beverly P. Alfon
Attorney for Plaintiffs
BAUM SIGMAN AUERBACH & NEUMAN, LTD.
200 West Adams Street, Suite 2200
Chicago, IL 60606-5231
Bar No.: 6274459
Telephone: (312) 236-4316
Facsimile: (312) 236-0241
E-Mail: balfon@baumsigman.com

I:\FVLJ\Du-Cook\motion-judgment.bpa.df.wpd

CERTIFICATE OF SERVICE

The undersigned, an attorney of record, hereby certifies that she electronically filed the foregoing document (Motion for Entry of Judgment) with the Clerk of Court using the CM/ECF system, and further certifies that I have mailed the above-referenced document by UPS NEXT DAY AIR (Tracking No. 1Z F36 162 01 9544 7901) to the following non-CM/ECF participant on or before the hour of 5:00 p.m. this 26th day of March 2009:

Mr. Don J. Tessler, Registered Agent
Du-Cook Construction Co., Inc.
1356 Lincolnshire Court
Carol Stream, IL 60188

/s/ Beverly P. Alfon _____

Beverly P. Alfon
Attorney for Plaintiffs
BAUM SIGMAN AUERBACH & NEUMAN, LTD.
200 West Adams Street, Suite 2200
Chicago, IL 60606-5231
Bar No.: 6274459
Telephone: (312) 236-4316
Facsimile: (312) 236-0241
E-Mail: balfon@baumsigman.com

I:\FVLJ\Du-Cook\motion-judgment.bpa.df.wp